

**THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.4616-CAT of 2014
Date of Decision:22.02.2017**

Navodaya Vidyalaya Samiti

.....Petitioner

Vs.

Gurdev Singh (Music Teacher) and others

.....Respondents

**CORAM:- HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present:- Mr. D.R. Sharma, Advocate for the petitioner.

Mr. Gautam Kaile, Advocate for the respondents.

SURYA KANT, J.(Oral)

Petitioner- Navodaya Vidyalaya Samiti has laid challenge to the order dated 5.2.2013 passed by Central Administrative Tribunal, Chandigarh Bench whereby respondent No.1 has been held entitled to the grant of Senior Scale after counting the service rendered by him on deputation before his absorption by the petitioner- organisation.

The facts are not in dispute. The first respondent joined the petitioner- organisation as a Music Teacher on deputation on 24.7.1989. He served on deputation till he was permanently absorbed w.e.f. 1.9.1992. It is undeniable that as per the recommendations made by Fifth Central Pay Commission, which was adopted by the petitioner- organisation, respondent No.1 was entitled to grant of Selection Grade on completion of 12 years of service.

The issue which fell for consideration before the Tribunal was

whether 12 years' service was to be counted w.e.f. 1.9.1992 when respondent No.1 was permanently absorbed or the service rendered by him on deputation was also to be counted? Suffice to mention that first respondent did not get any promotion etc., despite serving the organisation for 22 years.

The Tribunal has answered the above stated question in favour of respondent No.1 observing as follows:-

“7. It is undisputed that the applicant is governed by O.M. No.35034/1/97 Estt. (1) dated 9.8.1999 (A-6) and 35024/1/97-Estt. (D) (Vol. IV) dated 10.02.2000 (A-7) issued by the DoPT regarding Assured Progression Scheme for the Central Government Civilian Employees.

8. In Sr. No.4, 5 and 6 of the OM dated 10.2.2000 it has been made clear that if a government servant has been appointed to any post in the same pay scale, either as a direct recruit or on absorption (transfer) basis, or first on deputation basis and later on absorbed (on transfer), it should not make any difference for the purpose of ACP so long as he is in the same pay scale. It is undisputed that the applicant was drawing the same pay scale immediately before and after absorption. Accordingly, he had become entitled to the first ACP on 24.7.2001-----” [emphasis applied]

The only plea taken in this writ petition is that the petitioner-organisation has taken a self serving policy decision dated 2.7.2001 (Annexure R.2) laying down that the service of absorbed employees for the

purpose of Senior Scale/ Selection Grade shall be counted from the date of absorption.

We have heard learned counsel for the parties and are not impressed by the above said contention. The Senior Scale/ Selection Grade or Assured Career Progression benefits are granted to the employees under different schemes on the premise that the employees are stagnated and do not get promotion within a reasonable period. Both the Schemes prescribe eligibility conditions with the sole object to provide incentives to the employees by way of higher pay-scale without any functional alterations. In this view of the matter, the Tribunal has rightly followed the criteria prescribed by Government of India, Ministry of Personal Public Grievances and Pension Tribunal, under the Assured Career Progression Scheme, to the effect that in the case of a deputationist who is later on absorbed, the service rendered by him on deputation shall also be counted towards the minimum qualifying years.

The administrative decision taken by the petitioner-organisation to the contrary may have some rationality in the matter of fixation of seniority, as it might affect hundreds of other employees if the service rendered on deputation is counted towards seniority. Such reasoning, however, becomes altogether alien when the question of granting an individual benefit arises. The Senior Scale or Selection Grade is personal to the employee concerned. It has no bearing or effect on other employees of their seniority. It is in recognition of one's satisfactory service rendered for the minimum prescribed tenure that the benefit is granted. For such purpose, the service rendered on deputation before absorption cannot

be over-looked. For the reasons above stated, we do not find any merit in the petition.

Dismissed.

(SURYA KANT)
JUDGE

(SUDIP AHLUWALIA)
JUDGE

22.02.2017

renu

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No